

JAMES E. SWOBODA,

Plaintiff,

v.

THE JUDICIAL CLERKSHIP OF
THE SUPREME COURT, et al.,

Defendants.

This matter is before the Court upon the motion of James Swoboda for leave to commence this action without prepayment of the filing fee pursuant to 28 U.S.C. § 1915. Upon consideration of the financial information provided with the motion, the Court finds that plaintiff is financially unable to pay any portion of the filing fee. As a result, plaintiff will be granted leave to proceed in forma pauperis.

Rule 12(h)(3) of the Federal Rules of Civil Procedure states that “[i]f the court determines at any time that it lacks subject-matter jurisdiction, the court must dismiss the action.”

The Complaint

Plaintiff is asking this Court to review the decisions of the Missouri Supreme Court and the Missouri Court of Appeals for the Eastern District of Missouri. Plaintiff received an adverse judgment in a family court case regarding the custody of his children. Plaintiff argues that the courts did not follow the correct procedures and did not treat him fairly.

Discussion

Federal district courts are courts of original jurisdiction; they lack subject matter jurisdiction to engage in appellate review of state court decisions. Postma v. First Fed. Sav. & Loan, 74 F.3d 160, 162 (8th Cir. 1996). “Review of state court decisions may be had only in the Supreme Court.” Id. As a result, this Court lacks subject matter jurisdiction.

Moreover, this Court lacks jurisdiction over the subject matter of this case, i.e., child custody. Kahn v. Kahn, 21 F.3d 859, 861 (8th Cir. 1994) (“The domestic relations exception . . . divests the federal courts of jurisdiction over any action for which the subject is a divorce, allowance of alimony, or child custody.”). As a result, this case will be dismissed under Rule 12(h)(3).

Accordingly,

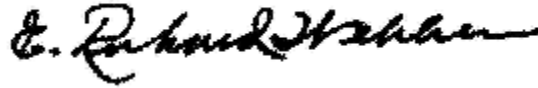
IT IS HEREBY ORDERED that plaintiff's motion to proceed in forma pauperis [Doc. 2] is **GRANTED**.

IT IS FURTHER ORDERED that plaintiff's motion for appointment of counsel [Doc. 4] is **DENIED** as moot.

IT IS FURTHER ORDERED that the Clerk shall not issue process or cause process to issue upon the complaint because the Court lacks subject matter jurisdiction.

An appropriate Order of Dismissal shall accompany this Memorandum and Order.

So Ordered this 18th Day of May, 2012.

A handwritten signature in black ink, appearing to read "E. Richard Webber", is written above a horizontal line.

E. RICHARD WEBBER
SENIOR UNITED STATES DISTRICT JUDGE